

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IRINA IOANA D'AMATO,

Plaintiff,

v.

HEALTH AND HUMAN SERVICES, et al.,

Defendants.

Case No. [18-cv-04397-HSG](#)

**ORDER DENYING MOTION FOR  
TEMPORARY RESTRAINING ORDER  
AND DISMISSING UPDATED  
COMPLAINT WITH LEAVE TO  
AMEND**

Re: Dkt. No. 10

On July 20, 2018, the Court dismissed Plaintiff's complaint for failure to state a claim, and granted Plaintiff leave to file an amended complaint by August 17, 2018. Dkt. No. 8 ("Dismissal Order") at 3. In its Dismissal Order, the Court also denied Plaintiff's application to proceed *in forma pauperis*, finding that Plaintiff's action was legally frivolous. *Id.* at 2.<sup>1</sup>

Just hours after the Court dismissed Plaintiff's complaint, Plaintiff filed an "updated complaint" renewing her demand for a temporary restraining order and an order vacating related judgments of the state family court. Dkt. No. 10 ("Mot."). In her updated complaint, Plaintiff specifies a greater number of persons and agencies allegedly involved in the forced removal of her children. *See id.* Nonetheless, Plaintiff's updated complaint still lacks any citations to the statutory or constitutional bases for her claims. Plaintiff also fails to elaborate on what the vast majority of named Defendants did or may have done in relation to her claims. For instance, Plaintiff names all U.S. federal government agencies and persons that could have been involved in the alleged illegal removal of her children, but omits any detail on which agencies may have

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<sup>1</sup> The Court detailed the factual background and applicable legal standards in its Dismissal Order, and incorporates those unchanged facts and the legal analysis from the Dismissal Order here. In this order, the Court only discusses the facts and legal standards as necessary to address the new issues raised in Plaintiff's updated complaint and motion for a temporary restraining order.

1 participated in the unlawful conduct and how. *See* Mot. at 7.

2 For these reasons, the Court concludes that Plaintiff again fails to state a legally cognizable  
3 claim for relief. The Court accordingly **DENIES** Plaintiff's motion for a temporary restraining  
4 order and **DISMISSES** Plaintiff's complaint, granting her one last opportunity to amend the  
5 complaint. In her further amended complaint, Plaintiff must clearly identify: (1) each legal claim;  
6 (2) *the facts and legal basis supporting each claim*; and (3) the defendant against whom the claim  
7 is alleged. If she chooses to file a second amended complaint, Plaintiff must do so by no later than  
8 28 days from the date of this order. The Court will dismiss the second amended complaint  
9 without further leave to amend if Plaintiff fails to correct the deficiencies the Court has identified  
10 in its orders.

11 **IT IS SO ORDERED.**

12 Dated: 7/23/2018

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14 HAYWOOD S. GILLIAM, JR.  
15 United States District Judge  
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